



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/972,010	10/05/2001	Duane Mark Baldwin	SJ09-2001-0093	4421
46917	7590	10/30/2006		
KONRAD RAYNES & VICTOR, LLP. ATTN: IBM37 315 SOUTH BEVERLY DRIVE, SUITE 210 BEVERLY HILLS, CA 90212			EXAMINER CHOUDHURY, AZIZUL Q	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 10/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/972,010

Applicant(s)

BALDWIN ET AL.

Examiner

Azizul Choudhury

Art Unit

2145

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: NONE.
Claim(s) objected to: NONE.
Claim(s) rejected: 1, 3-21, 23-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.


JASON CARDONE
SUPERVISORY PATENT EXAMINER

Continuation of 3. NOTE: The claim amendments alter the dependencies of the claims and introduce new details into the claims which may raise new issues. For instance, claim 17 now cites that the standard error and output is sent by two separate platform specific processes as opposed to having been sent by a platform specific process.

Continuation of 11. does NOT place the application in condition for allowance because: The six main points of contention presented by the applicant are not deemed fully persuasive. The first point of contention involves the Phillips prior art. The applicant contends that the prior art is not applicable because the applicant believes that the prior art is not in the same field of endeavor. The examiner disagrees with this assertion. The Phillips prior art is applied to teach the well known claim trait of command line communication between different processing systems in a computing environment and hence the Phillips prior art is deemed to be in the same field of endeavor and rejections based on it are maintained.

The second point of contention involves the claim feature of having two different platforms communicating via a command line interface. The applicant contends that such a feature is not taught in either prior arts. The examiner disagrees. The Phillips prior art teaches how GDB (Unix based) communicates with Windows applications via ASCII in command line windows, which are retained (column 23, lines 50-67, Phillips). It is clear in the prior art that GDB and Windows are communicating through ASCII and it is extremely well known in the art that when command line windows can be left open as is in the prior art.

The third point of contention involves the claimed trait of a manager in communication with the first and second common platform-independent process to transmit requests for information regarding one or more SAN components. The applicant contends that such a feature is not taught in either prior arts. The examiner disagrees with this assertion. The Bates prior art teaches how hosts with different operating systems can access SAN components (column 13, lines 29 - column 14, line 60, Bates). This is deemed equivalent to the claimed trait.

The fourth point of contention involves the claim trait of requiring the first and second common platform independent processes respond to requests from the manager by invoking processes. This simply means that the platform independent processes respond to a request. The applicant contends that such means are not taught in either prior arts. The examiner disagrees. As stated earlier, the Bates prior art teaches how hosts with different operating systems can access SAN components (column 13, lines 29 - column 14, line 60, Bates). By accessing SAN components, it is inherent that communication (fulfill requests) between the SAN components and the platform independent processes (hosts with different operating systems) must occur. The Bates prior art is thus believed to teach the claimed trait.

The fifth point of contention involves the trait of standard error or standard output. The applicant contends that the prior arts do not teach the claimed features. The examiner again disagrees. The Bates prior art teaches within column 3, lines 37-67 that read and write means are present. Standard error and standard output are simply write means.

The sixth point of contention involves the claimed query engine for forwarding the query from the manager to the processes. The applicant contends that neither prior arts teach such a trait. The Bates prior art however teaches how the storage allocator (manager) uses query languages (column 15, lines 5-22, Bates). Since query languages are being used, means for an engine to implement the query language as claimed are obviously present.